

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GENE DIEHL, #764951,)	
Plaintiff,)	
)	No. 1:12-cv-410
-v-)	
)	HONORABLE PAUL L. MALONEY
AMANDA OSBORN,)	
Defendant.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION OVER OBJECTIONS

On April 25, 2012, Plaintiff Gene Diehl, a Michigan parolee, filed this action *in forma pauperis* against Amanda Osborn, his parole agent. (ECF No. 1.) Mr. Diehl objects to the requirement that he wear a “SCRAM” alcohol tether as a condition of his parole. He argues that this condition violates his Fourteenth Amendment rights and asks for \$10,000 per day in compensatory damages. (*Id.*) The magistrate judge reviewed Mr. Diehl’s complaint under 28 U.S.C. § 1915(e)(2) and issued a Report and Recommendation that the complaint should be dismissed for failure to state a claim upon which relief can be granted. (ECF No. 4.) Before the court today are Mr. Diehl’s objections to that report and recommendation. (ECF No. 5.)

I. STANDARD OF REVIEW

Parties have 14 days to file written objections to the proposed findings and recommendations in a magistrate judge’s report and recommendation (“R&R”). 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews *de novo* the portions of the R&R to which objections have been filed, and may accept, reject, or modify, in whole or in part, the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Only specific objections are entitled to *de novo* review under the statute, *see Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam), and the statute does not “positively require[] some lesser review by the district court

when no objections are filed.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to object to an issue waives that issue, along with the party’s right to appeal that issue. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *see Arn*, 474 U.S. at 155 (upholding the Sixth Circuit’s practice).

II. DISCUSSION

Mr. Diehl’s objections do not dispute the facts as stated in the magistrate judge’s report and recommendation or the legal precedents that the magistrate judge relied on. Instead, Mr. Diehl simply asserts that prohibiting him from using alcohol violates his constitutional rights. The magistrate judge anticipated and dismissed this argument, however, and Mr. Diehl cites no authority to the contrary. His objection is therefore **OVERRULED**.

Mr. Diehl further argues that under the Due Process and Equal Protection Clauses, he should be appointed counsel for his case. An objection to the magistrate judge’s report and recommendation is not the proper place for such a request, however. To the extent this claim constitutes an objection, it too is **OVERRULED**.

Therefore, **IT IS HEREBY ORDERED** that the report and recommendation (ECF No. 4) is **ADOPTED**, over objections, as the opinion of this court. Plaintiff Diehl’s complaint is hereby **DISMISSED**.

IT IS SO ORDERED.

Date: June 29, 2012

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge